

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

**FRANCISCO FABIAN**

**PETITIONER**

**vs.**

**CIVIL ACTION No.: 3:16-CV-842-HTW-LRA**

**WARDEN LARRY SHULTS**

**RESPONDENT**

**ORDER ADOPTING THE REPORT AND RECOMMENDATION**

BEFORE THIS COURT is the Report and Recommendation of United States Magistrate Judge Linda R. Anderson. [**Docket no. 17**]. In her Report and Recommendation, filed on January 8, 2020, Magistrate Judge Anderson recommended that the petitioner's Petition for Writ of Habeas Corpus [**Docket no. 1**] be DISMISSED because his challenge encapsulates the validity of his sentencing enhancement and is not properly before this court (petitioner should have filed his petition in the United States District Court for the Eastern District of Pennsylvania where he had been sentenced). Magistrate Judge Anderson directed the *pro se* petitioner to file any objections within fourteen (14) days. The petitioner has not filed an objection as of the entry of this order.

Based upon the findings and recommendation contained in the Report and Recommendation [**Docket no. 17**], this court finds it well-taken. Therefore, the Report and Recommendation of the Magistrate Judge is hereby **ADOPTED** as the order of this court.

Accordingly, this order hereby **DISMISSES** this lawsuit **WITH PREJUDICE** and orders that the parties are to bear their own costs.

A final order adverse to the petitioner having been filed in the captioned habeas corpus case, in which the detention complained of arises out of process issued by a federal court or a proceeding pursuant to 28 U.S.C. § 2255, the court, considering the record in the case and the requirements of 28 U.S.C. § 2253, Rule 22(b) of the Federal Rules of Appellate Procedure, and

Rule 11(a) of the Rules Governing Section 2241 Cases in the United States District Courts, hereby finds that:

A Certificate of Appealability should not issue. The applicant has failed to make a substantial showing of the denial of a constitutional right.

**SO ORDERED AND ADJUDGED this the 24th day of January, 2020.**

**/s/HENRY T. WINGATE**  
**UNITED STATES DISTRICT COURT JUDGE**